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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,661	10/07/2003	Heinrich Zitzmann	3193 DIV	4097

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EXAMINER

EASTHOM, KARL D

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/679,661	Applicant(s) ZITZMANN, HEINRICH	
	Examiner Karl D Easthom	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5 and 14-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09889298.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friese et al. '007 in view of Tani et al., Murata et al., or Gerblinger et al. Friese discloses the claimed invention at Figs. 1 or 2 except the platinum film resistor 6 being thin film. Tani discloses a platinum film resistor 14 that can be produced by thin or thick film techniques for use as a temperature sensor (sputtering or screen printing - col. 3, lines 49-52) such that it would have been obvious to employ either type of platinum film where both are known in the temperature sensor resistor arts. Murata at col. 4, lines 1-12 also discloses that the platinum temperature sensing film may be thin or thick for use as a temperature sensor in a multilayered sensor such as that of Friese. One would be motivated to interchange the two depending on the equipment and materials available, or the response desired. In Friese, the glaze layer 4 is the connecting layer, described as a frame, such that it is in the border area as a sealing frame. A glaze is "a smooth, thin, shiny coating" Webster's II, New Riverside University Dictionary. As an alternative, in Gerblinger et al., the glass layer US is used to connect a thin or thick film layer to a ceramic layer, see abstract, for the purpose of protecting the thin film platinum layer, so that it would have been obvious to employ the glaze layer and thin film resistor in the Friese et al. device (thus meeting claim 17 also). The frame of Friese is depicted as a hermetically sealing frame surrounding the resistor 6 in Fig. 2, and described as a frame, see col. 3, lines 53-60, col. 5, lines 21-52. The ceramic cover and ceramic substrate are either 3, or films 1 and 11. The

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additional layers meet claim 16. See col 5, line 50-51, col. 4, lines 8-14. In claim 14, the ceramic substrate 4 is alumina. In claim 15, the cover layer 4' at Fig. 2 is alumina. In claim 16, film 11 meets the claim as a cover layer and it is on the peripheral edges, as well as the remaining portions.

3. Claims 5 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friese et al. '007 in view of Tani et al., as applied to claims above, and further in view of Wienand et al. The claimed invention is disclosed except the sealing glaze and sealing cover being of glass. For claim 5, assuming arguendo the word "glaze" is not met by the YSZ frame in Friese, Wienand discloses high melting glass solder at col. 4, lines 3-11 for attaching ceramic plates together such that it would have been obvious to employ the material for attachment as a replacement for the attachment means of Friese. Wienand also disclose an additional cover of glass 14 for added protection such that it would have been obvious to employ that (claims 16-17) for that reason in the device of Friese.

4. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friese et al. '007 in view of Gerblinger et al., as applied to claims above, and further in view of Wienand et al. The claimed invention is disclosed except the sealing cover being of glass. Wienand also disclose an additional cover of glass 14 for added protection such that it would have been obvious to employ that for that reason in the device of Friese.

5. Applicant's arguments filed 1/14/03 have been fully considered but they are persuasive only in part as to claims noted above. Applicant argues that the word "glaze" is derived from the German "glasur" from the translation. This is not the standard for patent applications. If something is missing from the original translation, this is a written description problem and no

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such meaning carries over to the US case. Thus, the term glaze is give its broadest reasonable interpretation, as noted by a dictionary definition. Also note that Gerblinger above employs a glass layer for connection to a ceramic layer. Applicant argues there is no motivation for a thin film because one would not interchange that with a thick film for various reasons. This argument is contradicted by the prior art of Murata, Tani, and Gerblinger et al., which discloses interchanging thin and thick films in devices very similar to that of Frieze - multilayered platinum temperature sensors. One would be motivated to do so depending on the equipment and materials available, or the response desired. If any problem exists with firing the films together, one could have fired the ceramic insulating plates first and then put the thin films on same. Note too that "thin films" are not "pastes" nor thinner thick films, as apparently argued, and the Examiner does not consider the thin films claimed as thinner thick films for this record.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703)308-3306. The examiner can normally be reached on M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703)308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



KARL D. EASTHOM
PRIMARY EXAMINER